

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Clarence Scott Miller, #267387,
a/k/a Clarence Miller,

Plaintiff,

vs.

Ms. Fogle, Sergeant;
Ms. Barber, of Food Services;
Mr. John H. Carmichael, Region Director,

Defendants.

Civil Action No. 6:13-1670-TMC

ORDER

The plaintiff, Clarence Scott Miller (“Miller”), filed this action *pro se* and *in forma pauperis*, pursuant to 42 U.S.C. § 1983, alleging that the defendants were deliberately indifferent when they served him sour milk on June 11, 2011.

Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C., all pre-trial matters have been referred to a magistrate judge. This case is now before the court on the magistrate judge’s Report and Recommendation (“Report”), recommending that the court dismiss this action without prejudice and without service of process. (ECF No. 15.) The magistrate judge’s recommendation has no presumptive weight and this court retains the responsibility to make a final determination. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976).

The court is charged with making a de novo determination of those portions of the Report to which a party specifically objects, and the court may accept, reject, or modify, in whole or in part, the magistrate judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1). However, the court has no duty to conduct a de novo review if a party’s

objections are “general and conclusory” and “do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

In this case, Miller filed timely objections to the Report. (ECF No. 17.) However, his objections merely restate factual allegations and legal conclusions from his complaint and fail to address any specific, dispositive portion of the Report. The court has thoroughly reviewed the Report and Miller’s objections and finds no reason to deviate from the Report’s recommended disposition. Accordingly, the court adopts the Report and incorporates it herein. This case is, therefore, dismissed without prejudice and without service of process. Miller’s motion to amend his complaint (ECF No. 19) is moot.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Court Judge

August 19, 2013
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.